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4 UNITED STATES DISTRICT COURT
5 EASTERN DISTRICT OF WASHINGTON
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7 MAURIE LEMLEY,
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9 Plaintiff,
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11 v.
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13 CAROLYN W. COLVIN,
14 Commissioner of Social Security,
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16 Defendant.
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18 No. CV-13-0299-JTR
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20 ORDER DENYING PLAINTIFF'S
21 MOTION FOR SUMMARY
22 JUDGMENT, WITHOUT
23 PREJUDICE
24

25 BEFORE THE COURT is Plaintiff's October 21, 2013, pleading which the
26 Court has construed as a motion for summary judgment. ECF No. 11. Plaintiff is
27 proceeding *pro se* and has consented to proceed before a magistrate judge, ECF
28 No. 7.

29 The Court file indicates the Office of the United States Attorney has not
30 filed a notice of appearance in this case, and no Answer to Plaintiff's Complaint,
31 filed on August 9, 2013, has been filed by Defendant. It appears from a review of
32 the summons, ECF No. 6, that Defendant has not been properly served in this case.
33 *See Fed. R. Civ. P. 4(i)(1)(A).* Accordingly, at this time, Plaintiff's motion for
34 summary judgment, ECF No. 11, is premature. Plaintiff's motion for summary
35 judgment should only be filed after Defendant has been properly served¹ and after
36 the Administrative Record has been lodged in the case.

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38 ¹Plaintiff has 120 days from the date of the filing of the Complaint in which
39 to effectuate service. Fed. R. Civ. P. 4(m).
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1 Once Defendant has been properly served, Defendant will thereafter file an
2 Answer and lodge the Administrative Record. It can take several weeks for the
3 Administrative Record to be located and filed with the Court. Upon Plaintiff's
4 receipt of the Administrative Record, Plaintiff will be responsible for preparing a
5 proposed stipulated scheduling order and proposed order setting forth the briefing
6 schedule for the case. Plaintiff will determine the briefing dates, allowing
7 Defendant 42 days to respond to Plaintiff's motion for summary judgment unless
8 otherwise requested. With respect to the hearing date for the motions, Plaintiff
9 shall contact the Office of the United States Attorney for the Judge's next available
10 date.

11 Plaintiff's motion for summary judgment, **ECF No. 11**, is **DENIED**
12 **WITHOUT PREJUDICE**, with leave to renew after Defendant is properly served
13 and the Administrative Record has been lodged in this matter.

14 **IT IS SO ORDERED.** The District Court Executive is directed to file this
15 Order and provide a copy to Plaintiff.

16 DATED October 23, 2013.



A handwritten signature in black ink, appearing to read "M".

17 JOHN T. RODGERS
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19 UNITED STATES MAGISTRATE JUDGE
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